REMARKS

The present amendment is submitted in response to the Office Action dated September 10, 2003, which set a three-month period for response. Filed herewith is a Request for a Two-month Extension of Time, making this amendment due by February 10, 2004.

Claims 19-36 are pending in this application.

In the Office Action, the drawings and specification were objected to for various informalities. Claims 21, 26-30 and 32-36 were objected to for various informalities. Claims 26-27 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Claims 19-36 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 19-21 and 23-24 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,485,650 to Swanepoel (Swanepoel '650). Claims 19-21, 23-24, 28, 30, 31, and 33-36 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,325,564 to Swanepoel (Swanepoel '564). Claims 22 and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Swanepoel in view of U.S. Patent No. 3,192,551 to Appel. Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over Swanepoel in view of U.S. Patent No. 4,045,838 to Porter. Claim 35 was rejected under 35 U.S.C. 103(a) as being unpatentable over Swanepoel in view of U.S. Patent No. 3,192,551 to Appel.

In the present amendment, the drawings and specification have been amended to address the noted objections. The claims have been amended

generally to adopt standard U.S. claim format and to address the various formal objections and rejections under Section 112, second paragraph.

In the Office Action, on page 2, paragraph 4, the Examiner notes that on page 4, paragraphs 2 and 3 and page 13, values were named (0.005 and 0.009), which were designated both as a proportion and as an another. The Applicant notes that an angle reading in radians is a ratio up to 2 pi, and thus represents a proportion.

It is generally known that the ratio information is not described in radians. In the specification, page 13, last paragraph, the practitioner is provided with the interrelationship that the angle gamma is provided in a degree dimension as well as in a radian dimension. Since here the values of 0.009 and 0.005 are mentioned explicitly, for the practitioner, this interrelationship is clear.

With regard to the objection noted on page 4, paragraph 7 of the Office Action, the Applicant respectfully submits that, as with all patent applications, this application is directed to a practitioner of ordinary skill in the relevant art. An average practitioners that when a quantity p(s) is used in a formula that this represents a functional dependency of a quantity p from a quantity s. For the practitioner, it would be clear that this functionalities are not to be confused with the reference numerals, which are used only to designate a coordinate. However, if the Examiner still believes that these designations are confusing, the Applicant can amend the specification further to replace or delete the reference numeral use of (s).

With regard to the rejection under Section 112, paragraph 1, stated on page 4, paragraph 8, the Applicant must again respectfully disagree. It is common to provide value ranges in the form of inequalities, whereby the value ranges themselves are dependent on parameters. In the present case, the practitioner obtains the manufacturing instruction for the spring bars of the wiper blade that the values for the width and the thickness of the spring bars may lie only in ranges, which are determined by the length of the spring bars. These types of relationships are represented in science by means of proportionalities, while in technology, rather, with proportionality constants, which make possible a conversion of one value range into the other, or with dimensionless values, the statement of the dimensions takes place separately. For purposes of clarity of this interrelationship, the Applicant has chosen the latter variation. It is known to represent such dimensionless values, in particular, with tables, in which the values themselves are set forth as simple numbers and the dimensions are provided within the column headings.

Attached hereto is such a table by way of example from a table book dated 1975, in which for various types of wire, the mass in kilograms per meter can be derived, when a quantity (d, a, s) correlated with the wire diameter lies in millimeters.

The practitioner can determined, based on the correlation provided in the specification, for a wiper blade with a length of 700 mm, in which value range the width for the spring bars must lie, when this has a thickness of 1 mm, for example:

$20 * (0.7)^2 < b * 1^2 < 40 * (0.7)^2$

$9.8 < b < 19.6$

for the width in mm. For the practitioner, this information is clear. Also for the practitioner, claim 27, in view of Figure 5, is also clear.

Claims 19-21 and 23-24 were rejected under Section 102 as being anticipated by the Swanepoel '650 patent. This reference relates to the lateral rigidity of a spring bar for a wiper blade. Accordingly, the force noted in column 3, lines 38-41 of 1 N also presses parallel to the Z axis – that is, parallel to the windshield. This is not the force that presses the wiper arm onto the wiper blade. Since this force is neither disclosed nor suggested in Swanepoel '650, this reference cannot be viewed as anticipatory of the present invention as defined in claim 19.

Swanepoel '650 shows and describes a wiper blade whose spring contact strip tapes continuously from the center to the tips (column three, lines 36 and 37). The width extends from the tip (6 mm) to the center (11) just under 100%; with the tightness (0.22 mm to 1.29 mm), the increase amounts to just under 500%. Thus, Swanepoel fails to show or suggest the substantially constant width and thickness of the present invention.

Thus, the rejection of the claims under Section 102 cannot be maintained. A prior art reference anticipates a claim only if the reference discloses every limitation of the claim. Absence from the reference of any claimed element negates anticipation. ***Row v. Dror***, 42 USPQ 2d 1550, 1553 (Fed. Cir. 1997).

Claims 19-21, 23-24, 28, 30, 31, and 33-36 were rejected under Section 102 as being anticipated by Swanepoel '564, and example 2 of this reference is specifically noted. Based on the tapered geometry of the spring bars, values between 0.0009 (center) and 0.016 (ends) can be determined. Thus, the wiper blade of example 2 of Swanepoel '564 lies outside of the range provided in the present application. In other words, by the teachings of the present invention, the practitioner would not learn how to design a wiper blade like that described in Swanepoel '564. Swanepoel '564 actually teaches away from the present invention. Thus, the rejection under Section 102 is not proper.

Also, Swanepoel '564 teaches the practitioner to design wiper blades with outwardly increasing spring bars. In example 2 of Swanepoel '564, the width must increase from 6 mm to 11 mm (just under 100% and the thickness increases from 0.43 mm to 1.15 mm (over 160%). Again, no constant thickness and width is provided.

For a prior art reference to anticipate a claim, the reference must disclose each and every element of the claims with sufficient clarity to provide its existence in the prior art. ***Motorola, Inc. v. Interdigital Tech. Corp.***, 43 USPQ 2d 1481, 1490 (Fed. Cir. 1997).

To more clearly define the present invention over the cited references, claim 19 has been amended to add the features of claim 21, which has been canceled. For the practitioner, the limitations "substantially constant" is clear and requires no further explanation. It is clear to the practitioner that an exact dimensional accuracy is only theoretically obtainable. In practice, always

tolerance fluctuations are provided, which by expensive processes can be maintained at a minimum, but which cannot be avoided. In addition, it is also necessary to apply indentations or recesses on a spring band so that end caps, spoilers or the like can be attached. Thus, the width or the thickness, remaining constant, do not essentially affect the geometry and technical behavior of the spring bars.

In paragraph 13 of the Office Action, the limitations of claim 25 are rejected as obvious over Swanepoel '564 and Porter. As previously noted above, the teachings of Swanepoel '564 guide the practitioner away from the present invention. In Porter, only a known friction value is provided. This friction value is provided only for completion of the teachings. This is necessary because the provided maximal deflection depends on the proportions of the window. From the information that the provided deflection should be considered fro a determined friction value, the practitioner obtains a specific teaching. This teachings is neither provided in Swanepoel '564 alone or in combination with Porter.

Since also in Porter, no further teachings are provided which will lead the practitioner to the present invention when combine with Swanepoel '564, the rejection under Section 103 cannot be maintained.

Also for the reasons set forth above with regard to the patentability of claim 19, claim 35, the method claim, also is patentable over the cited references.

For the reasons set forth above, the Applicant respectfully submits that claims 19-37 are patentable over the cited references. The Applicant further requests withdrawal of the rejections under 35 U.S.C. 102 and 103 and reconsideration of the claims as herein amended.

In light of the foregoing arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700